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EXAMINER

ZEWARI, SAYED

ART UNIT

PAPER NUMBER

2687

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/771,467	IIZUKA, MASATO
	Examiner Sayed T. Zewari	Art Unit 2687

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 2/5/2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Objections

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: "Multiple Mode Phone with Mode Selection History".

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 20 recites the limitation "computer program product" in 12. There is insufficient antecedent basis for this limitation in the claim. Claim 20 mentions a computer product and points out to claim 12 which does not mention anything about computer product but describes only a method. This renders claim 20 vague and indefinite. For examination purpose, the examiner consider claim 12 to be the base for claim 20.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claim 1, 12, 17, 4, 13, and 18 are rejected under 35 U. S. C. 102(a) as being anticipated by Kajihara (US 6,393,006)

With respect to claim 1, Kajihara teaches a cellular phone inherently comprising: a plurality of wireless communication units (See abstract, figure 2(1), col. 1, lines 7-8, lines 25-26, col. 3, lines 29-32, col. 4, lines 2-7, lines 8-9, lines 19-28, col. 6, lines 66-67, and col. 7, lines 3-4, col. 1 lines 5-30, where Kajihara discusses using digital or analog systems, therefore, different communications units, e.g., complete radio units or different units specific to the analog and digital system, e.g., A/D FSK demodulator). Kajihara teaches a memory unit (See figure 2(4), col. 7, lines 14-19) storing a history data which indicates history of used communication modes (See abstract, col. 4, lines 44-56). Kajihara teaches a control unit controlling said plurality of wireless communication units (See figure 2(2), col. 7, lines 6-10) and said memory unit, wherein said control unit selects one communication mode from said plurality of communication modes based on

said history data (See figure 1, abstract, col. 4, lines 44-56, and col. 8, lines 12-22).

With respect to claim 12, Kajihara teaches a communication method by using a cellular phone supporting a plurality of communication modes (See abstract, figure 2(1), col. 1, lines 7-8, lines 25-26, col. 3, lines 29-32, col. 4, lines 2-7, lines 8-9, lines 19-28, col. 6, lines 66-67, and col. 7, lines 3-4). Kajihara teaches a communication method comprising: (a) storing a history data indicating history of used communication modes in a memory (See abstract, figure 2(4), col. 6 lines 1-3). (b) selecting one communication mode from said plurality of communication modes based on said history data (See abstract, figure 1(P-3, P-12), col. 7, lines 26-44, col. 8, lines 12-22).

With respect to claim 17, Kajihara teaches a computer program product which is embodied on a computer-readable medium of a cellular phone supporting a plurality of communication modes (See abstract, figure 2(4), col. 7, lines 14-19, col. 4, lines 44-56). Kajihara teaches a computer program product comprises code that, when executed, causes a computer to perform: (a) storing a history data indicating history of used communication modes in a memory (See abstract, col. 4, lines 44-56). (b) selecting one communication mode from said plurality of communication modes based on said history data (See figure 1, abstract, col. 4, lines 44-56, and col. 8, lines 12-22).

With respect to claim 4, Kajihara teaches a cellular phone wherein a control unit selects one communication mode when power of cellular phone is turned on (See abstract, col. 4 lines 44-56).

With respect to claim 13, Kajihara teaches a communication method of updating history data after establishing a communication (See figure 1(P-8 & P-12), col. 8 lines 12-22).

With respect to claim 18, Kajihara teaches a computer product that when executed causes a computer to perform updating history data after establishing a communication (See col.8 lines 12-22). Kajihara does not specifically mentions a computer product but its use in his system is inherent because without such a program his system would not perform the task of storing data.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 2, 3, 5-11, 14-16, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kajihara (US 6,393,006) in view of Parker (US 6,603,755).

With respect to claim 2, Kajihara discloses a cellular phone with a plurality of wireless communication units for operating in a plurality of communication modes. Kajihara's cellular phone is further comprised of memory unit and control unit wherein the control unit selects one communication mode from plurality of communication modes based on history data. However, Kajihara does not specifically mention of control unit selecting a most frequently used communication mode as communication mode (See claim 1 rejection for references). However, Parker discloses a cellular phone wherein control unit selects a most frequently used communication mode as one communication mode (See figure 2(52), figure 7(92), figure 10A(111), col.3, lines 46-51, lines 63-65, col.6, lines 66-67, col. 7, lines 1-17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the cellular phone disclosed by Kajihara and include functionality (computer program codes) for selecting a most frequently communication mode, as disclosed by Parker, trying to increase the chance of selection a suitable communication mode (See Parker col. 1 lines 10-13).

With respect to claim 3, Kajihara discloses a cellular phone with a plurality of wireless communication units for operating in a plurality of communication modes. Kajihara's cellular phone is further comprised of memory unit and control unit wherein the control unit selects one communication mode from plurality of communication modes based on history data. Also the said control unit selects a second communication mode when a first communication mode is unavailable. However, Kajihara does not specifically mention of control unit selecting a most frequently used communication mode as communication mode (See claim 1 rejection for references). However, Parker discloses a cellular phone wherein a control unit selects a second communication mode as said one communication mode when a first communication mode is unavailable, said second communication mode being used frequently next first communication mode. (See figure 2(52), figure 7(92), figure 10A(111), col.3, lines 46-51, lines 63-65, col.6, lines 66-67, col. 7, lines 1-17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a cellular phone disclosed by Kajihara and include functionality (computer program codes) for selecting a most frequently communication mode, as disclosed by Parker, trying to select a most frequently communication mode when the first communication mode is unavailable (See Parker col. 7 lines 2-5).

With respect to claim 5, Kajihara & Parker teach all of the limitations of claim 1 and 2. Kajihara discloses a cellular phone with a plurality of wireless communication units for operating in a plurality of communication modes.

Kajihara's cellular phone is further comprised of memory unit and control unit wherein the control unit selects one communication mode from plurality of communication modes based on history data (See claim 1 rejection for references). Kajihara further teaches a cellular phone wherein control unit selects one communication mode when power of said cellular phone is turned on (See abstract of Kajihara).

With respect to claim 6, Kajihara & Parker teach all of the limitations of claim 1 and 3. Kajihara discloses a cellular phone with a plurality of wireless communication units for operating in a plurality of communication modes. Kajihara's cellular phone is further comprised of memory unit and control unit wherein the control unit selects one communication mode from plurality of communication modes based on history data (See claim 1 rejection for references). However, Kajihara does not specifically mention of control unit selecting a second communication mode when the cellular phone moves out of service area. Parker discloses a cellular phone wherein a control unit selects a second communication mode as said one communication mode when a first communication mode is unavailable, said second communication mode being used frequently next first communication mode. Parker further teaches a cellular phone wherein a control unit selects second communication mode when cellular phone moves out of service area of a communication system associated with said first communication mode. (See figure 2(52), figure 7(92), figure 10A(111), col.3, lines 46-51, lines 63-65, col.6, lines 66-67, col. 7, lines 1-17). It would have

been obvious to one of ordinary skill in the art at the time the invention was made to modify a cellular phone disclosed by Kajihara and include functionality (computer program codes) for selecting a second communication mode, as disclosed by Parker, trying to keep connectivity of cellular when it moves out of one service area to another (See Parker col. 2 lines 26-44).

With respect to claim 9, Kajihara & Parker teach all of the limitations of claim 1 and 2. Kajihara discloses a cellular phone with a plurality of wireless communication units for operating in a plurality of communication modes. Kajihara's cellular phone is further comprised of memory unit and control unit wherein the control unit selects one communication mode from plurality of communication modes based on history data (See claim 1 rejection for references). However, Kajihara does not specifically mention of history data relating used communication modes with number of use. Parker discloses a cellular phone wherein control unit selects a most frequently used communication mode as one communication mode (See figure 2(52), figure 7(92), figure 10A(111), col.3, lines 46-51, lines 63-65, col.6, lines 66-67, col. 7, lines 1-17). Parker further teaches a cellular phone wherein history data relates each of used communication modes with number of use. (See figure 2(52), figure 7(92), figure 10A(111), col.3, lines 46-51, lines 63-65, col.6, lines 66-67, col. 7, lines 1-17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a cellular phone disclosed by Kajihara and include functionality (computer program codes) for relating used communication modes

with number of use, as disclosed by Parker, trying to increase the chance of selection a suitable communication mode (See Parker col. 2 lines 26-44).

With respect to claim 10, Kajihara & Parker teach all of the limitations of claim 1 and 3. Kajihara discloses a cellular phone with a plurality of wireless communication units for operating in a plurality of communication modes. Kajihara's cellular phone is further comprised of memory unit and control unit wherein the control unit selects one communication mode from plurality of communication modes based on history data (See claim 1 rejection for references). However, Kajihara does not specifically mention of history data relating used communication modes with number of use. Parker discloses a cellular phone wherein control unit selects a most frequently used communication mode as one communication mode (See figure 2(52), figure 7(92), figure 10A(111), col.3, lines 46-51, lines 63-65, col.6, lines 66-67, col. 7, lines 1-17). Parker further teaches a cellular phone wherein history data relates each of used communication modes with number of use. (See figure 2(52), figure 7(92), figure 10A(111), col.3, lines 46-51, lines 63-65, col.6, lines 66-67, col. 7, lines 1-17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a cellular phone disclosed by Kajihara and include functionality (computer program codes) for relating used communication modes with number of use, as disclosed by Parker, trying to increase the chance of selection a suitable communication mode (See Parker col. 2 lines 26-44).

With respect to claim 14, Kajihara teaches a communication method by using a cellular phone supporting a plurality of communication modes (See abstract, figure 2(1), col. 1, lines 7-8, lines 25-26, col. 3, lines 29-32, col. 4, lines 2-7, lines 8-9, lines 19-28, col. 6, lines 66-67, and col. 7, lines 3-4). Kajihara teaches a communication method comprising: (a) storing a history data indicating history of used communication modes in a memory (See abstract, figure 2(4), col.6 lines 1-3). (b) selecting one communication mode from said plurality of communication modes based on said history data (See abstract, figure 1(P-3, P-12), col.7, lines 26-44, col. 8, lines 12-22). However, Kajihara does not specifically mention of selecting of a most frequently used communication modes as communication mode. However, Parker discloses a cellular phone (and thus a method) wherein control unit selects a most frequently used communication mode as one communication mode (See figure 2(52), figure 7(92), figure 10A(111), col.3, lines 46-51, lines 63-65, col.6, lines 66-67, col. 7, lines 1-17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a cellular phone disclosed by Kajihara and include functionality (computer program codes) for selecting a most frequently communication mode, as disclosed by Parker, trying to increase the chance of selection a suitable communication mode (See Parker col. 2 lines 26-44).

With respect to claim 15, Kajihara teaches a communication method by using a cellular phone supporting a plurality of communication modes (See

abstract, figure 2(1), col. 1, lines 7-8, lines 25-26, col. 3, lines 29-32, col. 4, lines 2-7, lines 8-9, lines 19-28, col. 6, lines 66-67, and col. 7, lines 3-4). Kajihara teaches a communication method comprising: (a) storing a history data indicating history of used communication modes in a memory (See abstract, figure 2(4), col.6 lines 1-3). (b) selecting one communication mode from said plurality of communication modes based on said history data (See abstract, figure 1(P-3, P-12), col.7, lines 26-44, col. 8, lines 12-22). However, Kajihara does not specifically mentions of a method selecting a second communication mode when the cellular phone is unavailable. Parker discloses a cellular phone (and thus a method) wherein a control unit selects a second communication mode as one communication mode when a first communication mode is unavailable, said second communication mode being used frequently next first communication mode (See figure 2(52), figure 7(92), figure 10A(111), col.3, lines 46-51, lines 63-65, col.6, lines 66-67, col. 7, lines 1-17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a cellular phone disclosed by Kajihara and include functionality (computer program codes) for selecting a most frequently communication mode, as disclosed by Parker, trying to select a most frequently communication mode when the first communication mode is unavailable (See Parker col. 2 lines 26-44).

With respect to claim 16, Kajihara & Parker teach all of the limitations of claim 12 and 14. Kajihara teaches a communication method by using a cellular phone supporting a plurality of communication modes (See abstract, figure 2(1),

col. 1, lines 7-8, lines 25-26, col. 3, lines 29-32, col. 4, lines 2-7, lines 8-9, lines 19-28, col. 6, lines 66-67, and col. 7, lines 3-4). Kajihara teaches a communication method comprising: (a) storing a history data indicating history of used communication modes in a memory (See abstract, figure 2(4), col.6 lines 1-3). (b) selecting one communication mode from said plurality of communication modes based on said history data (See abstract, figure 1(P-3; P-12), col.7, lines 26-44, col. 8, lines 12-22). However, Kajihara does not specifically mention a method selecting a second communication mode when the cellular phone is unavailable. Parker discloses a cellular phone (and thus a method) wherein a control unit selects a second communication mode as one communication mode when a first communication mode is unavailable, said second communication mode being used frequently next first communication mode (See figure 2(52), figure 7(92), figure 10A(111), col.3, lines 46-51, lines 63-65, col.6, lines 66-67, col. 7, lines 1-17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a cellular phone disclosed by Kajihara and include functionality (computer program codes) for selecting a most frequently communication mode, as disclosed by Parker, trying to select a most frequently communication mode when the first communication mode is unavailable (See Parker col. 2 lines 26-44).

With respect to claim 19, Kajihara teaches a computer program product which is embodied on a computer-readable medium of a cellular phone supporting a plurality of communication modes (See abstract, figure 2(4), col. 7,

lines 14-19, col. 4, lines 44-56). Kajihara teaches a computer program product comprises code that, when executed, causes a computer to perform: (a) storing a history data indicating history of used communication modes in a memory (See abstract, col. 4, lines 44-56). (b) selecting one communication mode from said plurality of communication modes based on said history data (See figure 1, abstract, col. 4, lines 44-56, and col. 8, lines 12-22). However, Kajihara does not specifically mention a method selecting a most frequently used communication mode as one communication mode. Parker discloses a computer product which selects a most frequently used communication mode as one communication mode (See figure 2(52), figure 7(92), figure 10A(111), col.3, lines 46-51, lines 63-65, col.6, lines 66-67, col. 7, lines 1-17). Parker does not specifically mention a computer product but its use in his communication system is inherent. Parker's communication system has memory, processor, and performs the tasks of selecting a communication mode based on a ranking table, so there must be a computer program product running on its processor to perform this task. Otherwise, it would not be functional. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a cellular phone (and thus a method) disclosed by Kajihara and include functionality (computer program codes) for selecting a most frequently communication mode, as disclosed by Parker, trying to increase the chance of selection a suitable communication mode (See Parker col. 2 lines 26-44, col. 1 lines 10-13).

With respect to claim 20, Kajihara teaches a communication method by using a cellular phone supporting a plurality of communication modes (See abstract, figure 2(1), col. 1, lines 7-8, lines 25-26, col. 3, lines 29-32, col. 4, lines 2-7, lines 8-9, lines 19-28, col. 6, lines 66-67, and col. 7, lines 3-4). Kajihara teaches a communication method comprising: (a) storing a history data indicating history of used communication modes in a memory (See abstract, figure 2(4), col.6 lines 1-3). (b) selecting one communication mode from said plurality of communication modes based on said history data (See abstract, figure 1(P-3, P-12), col.7, lines 26-44, col. 8, lines 12-22). However, Kajihara does not specifically mention of a method selecting a second communication mode when the cellular phone is unavailable. Parker discloses a cellular phone (and thus a method and a computer program product) wherein a control unit selects a second communication mode as one communication mode when a first communication mode is unavailable, said second communication mode being used frequently next first communication mode (See figure 2(52), figure 7(92), figure 10A(111), col.3, lines 46-51, lines 63-65, col.6, lines 66-67, col. 7, lines 1-17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a cellular phone disclosed by Kajihara and include functionality (computer program codes) for selecting a most frequently communication mode, as disclosed by Parker, trying to select a most frequently communication mode when the first communication mode is unavailable (See Parker col. 2 lines 26-44).

Claim 7, 8, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kajihara (US 6,393,006) in view of Bamburak (US 6,782,259).

With respect to claim 7, Kajihara discloses a cellular phone with a plurality of wireless communication units for operating in a plurality of communication modes. Kajihara's cellular phone is further comprised of memory unit and control unit wherein the control unit selects one communication mode from plurality of communication modes based on history data (See claim 1 rejection for references). However, Kajihara does not specifically mention history data indicating used communication modes in order of use. Bamburak, however, teaches a cellular phone wherein history data relates each used communication mode in order of use (See col. 3 lines 61-64). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a cellular phone disclosed by Kajihara and include functionality (computer program codes) for relating used communication modes with the order of use, as disclosed by Bamburak, trying to increase the chances of selection a suitable communication mode (See Bamburak col. 3 lines 42-64).

With respect to claim 8, Kajihara discloses a cellular phone with a plurality of wireless communication units for operating in a plurality of communication modes. Kajihara's cellular phone is further comprised of memory unit and control unit wherein the control unit selects one communication mode from plurality of communication modes based on history data (See claim 1 rejection for

references). However, Kajihara does not specifically mention history data indicating used communication modes with number of use. Bamburak, however, teaches a cellular phone wherein history data relates each used communication mode with number of use (See col. 3 lines 61-64). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the cellular phone disclosed by Kajihara and include functionality (computer program codes) for relating used communication modes with the number use, as disclosed by Bamburak, trying to increase the chances of selection a suitable communication mode (See Bamburak col. 3 lines 42-64).

With respect to claim 11, Kajihara discloses a cellular phone with a plurality of wireless communication units for operating in a plurality of communication modes. Kajihara's cellular phone is further comprised of memory unit and control unit wherein the control unit selects one communication mode from plurality of communication modes based on history data (See claim 1 rejection for references). However, Kajihara does not specifically mention history data indicating used communication modes with rate of use. Bamburak, however, teaches a cellular phone wherein history data relates each used communication mode with rate of use (See col. 3 lines 61-64). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a cellular phone disclosed by Kajihara and include functionality (computer program codes) for relating used communication modes with the

number use, as disclosed by Bamburak, trying to increase the chances of selection a suitable communication mode (See Bamburak col. 3 lines 42-64).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pon et al. U. S. Patent No. 6,272,343 B1 discloses an apparatus and method for fast signal acquisition on preferred communication channel.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sayed T. Zewari whose telephone number is 571-272-0000. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester G. Kincaid can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sayed T. Zewari

October 13, 2005

L/GK
10/13/05
LESTER G. KINCAID
SUPERVISORY PRIMARY EXAMINER